

SENATE BILL NO. 159

INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PROPERTY TAXES ON PROPERTY THAT IS CENTRALLY ASSESSED ARE COLLECTED BY THE DEPARTMENT OF REVENUE; REQUIRING THE DEPARTMENT TO TRANSMIT TO EACH COUNTY, FROM THE STATE GENERAL FUND, THE AMOUNT OF MONEY THAT IS DUE FROM PROPERTY TAXES AND ASSESSMENTS ON CENTRALLY ASSESSED PROPERTY IN THE COUNTY; PROVIDING THAT PROPERTY TAX COLLECTIONS FROM CENTRALLY ASSESSED PROPERTY ARE DEPOSITED BY THE DEPARTMENT IN THE STATE GENERAL FUND AND THE UNIVERSITY SYSTEM ACCOUNT; REQUIRING THAT COUNTIES PARTICIPATE IN COLLECTING UNPAID PROPERTY TAXES ON CENTRALLY ASSESSED PROPERTY AND THAT THE DEPARTMENT MAY ALSO COLLECT THOSE UNPAID TAXES; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 15-1-402, 15-16-101, 15-16-102, 15-16-104, 15-16-301, AND 17-7-502, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Payment of taxes on property that is centrally assessed made to department. (1) The payment of taxes on property that is centrally assessed under 15-23-101 must be made to the department.

(2) Upon receipt of mill levy reports from clerks and recorders under 15-10-305, the department shall compute the tax due and mail tax notices for property that is centrally assessed under 15-23-101. The notice must contain the information required by 15-16-101(2). The notice must state that the payment is to be made directly to the department. The notice must also state that if the taxpayer wishes to make any payment under protest pursuant to 15-1-402, the protested payment must also be made directly to the department. Payments are subject to the time, penalty, and interest provisions of 15-16-102. Except for protested payments, the department shall deposit the portion of the collections levied pursuant to 15-10-107 in the state special revenue fund and the remainder must be deposited in the state general fund.

(3) On November 30 and May 31 of each year, the department shall transmit to the treasurer of each county an amount of money that equals the total amount of property taxes and assessments payable by owners of centrally assessed property in the county. The transmitted funds must be distributed by the county treasurer

as if the payments had been made by the owners of the centrally assessed property. The payments made under this subsection are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to county treasurers.

(4) If the owner of centrally assessed property does not pay property taxes in a timely manner, the department shall report the nonpayment to the county treasurer and the county clerk and recorder of each county in which property of the taxpayer is situated. The county clerk and recorder and county treasurer shall pursue all methods of collecting the unpaid taxes under chapters 16 through 18 of this title. The department may, after notice to both the clerk and recorder and treasurer, elect to collect the taxes in the name of each of the counties in which the property is situated. Delinquent taxes collected by either the county or the department must be paid to the department. The department shall deposit the collections, and the amount that was originally levied pursuant to 15-10-107 must be deposited in the state special revenue fund and the remainder must be deposited in the state general fund.

(5) The department may accept a partial payment of centrally assessed property taxes as provided in 76-3-207.

Section 2. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest. (1) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested. The protested payment must:

(a) be made to the officer designated and authorized to collect it;

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(2) A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal may continue but a tax or fee may not be refunded as a result of the appeal.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to

1 recover the first installment portion paid under protest determines the right of the party paying the subsequent
2 installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a
3 subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

4 (4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county
5 or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund
6 to be designated as a protest fund and must be retained in the protest fund until the final determination of any
7 action or suit to recover the taxes and fees unless they are released at the request of the county, municipality,
8 or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the
9 money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The
10 provision creating the special protest fund does not apply to any payments made under protest directly to the
11 state.

12 (b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant
13 to 15-23-101 must be ~~remitted by the county treasurer to the state treasurer~~ paid to the department.

14 (ii) ~~The state treasurer~~ department shall deposit that portion of the funds levied pursuant to 15-10-107
15 in the state special revenue fund. The remainder of the funds must be deposited in the state general fund.

16 (5) ~~(a) Except as provided in subsection (5)(b), the~~ The governing body of a taxing jurisdiction affected
17 by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved
18 may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion
19 of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the
20 protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does
21 not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the
22 first-year protest amount.

23 ~~(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on~~
24 ~~property that is centrally assessed pursuant to 15-23-101 in the first and subsequent years that a tax protest~~
25 ~~remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing~~
26 ~~jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a~~
27 ~~taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude~~
28 ~~it from demanding in a subsequent year any or all of the payments to which it is entitled.~~

29 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not
30 commenced within the time specified or if the action is commenced and finally determined in favor of the

1 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the
2 protested portions of the property tax or fee must be taken from the protest fund and deposited to the credit of
3 the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of
4 the protest fund and related expenses charged to the local government units.

5 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
6 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
7 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
8 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
9 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
10 under protest.

11 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund
12 provided for in 17-6-203 for the applicable period.

13 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the
14 treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

15 (d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
16 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
17 local government units are responsible, the treasurer or, in the case of centrally assessed property, the
18 department shall bill and the taxing jurisdiction shall refund to the treasurer or department that portion of the
19 taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. ~~The~~
20 ~~treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in~~
21 ~~subsection (6)(b).~~

22 (ii) For an adverse protest action against the state for centrally assessed property, the ~~state treasurer~~
23 department shall refund the amount of protested taxes and interest as required in subsection (6)(b).

24 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is
25 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The
26 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of
27 payment under protest until the date of final resolution of the protest and at the combined rate of the federal
28 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final
29 resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

30 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds

1 from one or more of the following sources:

2 (a) imposition of a property tax to be collected by a special tax protest refund levy;

3 (b) the general fund or any other funds legally available to the governing body; and

4 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving
5 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city,
6 or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may
7 be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

8 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is
9 not owed."

10
11 **Section 3.** Section 15-16-101, MCA, is amended to read:

12 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
13 of the property tax record, the county treasurer shall publish a notice specifying:

14 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next
15 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
16 then due will be delinquent and will draw interest at the rate of 5/6 of 1% per month from the time of delinquency
17 until paid and 2% will be added to the delinquent taxes as a penalty;

18 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the
19 next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate
20 of 5/6 of 1% per month from the time of delinquency until paid and 2% will be added to the delinquent taxes as
21 a penalty; and

22 (c) the time and place at which payment of taxes may be made.

23 (2) (a) The county treasurer or, in the case of centrally assessed property, the department shall send
24 to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and
25 assessments due for the current year and the amount due and delinquent for other years. The written notice
26 must include:

27 (i) the taxable value of the property;

28 (ii) the total mill levy applied to that taxable value;

29 (iii) the value of each mill in that county;

30 (iv) itemized city services and special improvement district assessments collected by the county;

(v) the number of the school district in which the property is located; and
(vi) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax.

(b) If the property is the subject of a tax sale for which a tax sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iv) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared."

Section 4. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. ~~The county treasurer shall accept a~~ A partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years may be paid if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

~~(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."~~

Section 5. Section 15-16-104, MCA, is amended to read:

"15-16-104. Entry of payment -- receipt. (1) The county treasurer shall note the date and the amount of the payment of any tax in the property tax record opposite the name of the person paying.

(2) (a) Except as provided in subsection (2)(b), the county treasurer shall give a receipt to the person paying any tax, specifying the amount of the assessment and the tax paid, with a description of the property assessed.

(b) If the payment is received through the mail or by any electronic means, the county treasurer or the department for payments it receives shall issue a receipt only on request of the person paying the tax. If ~~the county treasurer issues~~ a receipt is issued, it must contain the information specified in subsection (2)(a)."

1 **Section 6.** Section 15-16-301, MCA, is amended to read:

2 **"15-16-301. Delinquent list -- list of taxes suspended or canceled -- real property.** (1) (a) On the
3 third Monday of December and on the third Monday of June of each year, the county treasurer ~~must~~ shall make
4 a report to the county clerk and recorder in detail, showing the amount of taxes collected and a complete list of
5 all persons and property then owing taxes.

6 (b) On the third Monday of December and on the third Monday of June of each year, the department
7 shall make a report to the county clerk and recorder and the county treasurer showing a complete list of all
8 persons then owing taxes on property that is centrally assessed and collected by the department under the
9 provisions of [section 1]. The list must also contain a description of the property.

10 (2) The county treasurer ~~must~~ shall make a separate report to the county clerk and recorder showing
11 the amount of taxes suspended or canceled under the provisions of Title 15, chapter 24, part 17, during the
12 6-month period immediately preceding the date of the report.

13 (3) The county clerk and recorder shall compare the reports with the books of the county treasurer and
14 shall keep a record of the reports in ~~his~~ the county clerk and recorder's office."
15

16 **Section 7.** Section 17-7-502, MCA, is amended to read:

17 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
18 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
19 the need for a biennial legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
21 of the following provisions:

22 (a) The law containing the statutory authority must be listed in subsection (3).

23 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
24 appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
26 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; [section 1];
27 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212;
28 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512;
29 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409;
30 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102;

50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214;
75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and
90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

NEW SECTION. Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15, chapter 16, apply to [section 1].

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